IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Bail Appl..No. 4731 of 2007(B)

(CRIME NO. 1035/2007 REGISTERED BY THE PERUMBAVOOR POLICE STATION)
.....

PETITIONER/ACCUSED:
----

1. **C.DHAMODHARAN, AGED 55 YEARS,**
   S/O A.DHAMODHARAN NAIR, ARIYAKKATTU HOUSE,
   OLLUR P.O., THRISSUR DISTRICT.

2. **U.J.ROY, AGED 36 YEARS,**
   S/O JOSE, UKKRAN HOUSE, THAIKKATTUSSERY,
   THRISSUR DISTRICT.

3. **K.SASIDHARAN, AGED 41 YEARS,**
   S/O BALARAMAN NAIR, KARUMANCHERY HOUSE,
   NEDUPUZHA P.O., THRISSUR DISTRICT.

BY ADV. SRI.K.ANAND.

RESPONDENTS/STATE & COMPLAINANT:
----

1. **STATE OF KERALA, REP. BY THE**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. **SUB INSPECTOR OF POLICE,**
   PERUMBAVOOR POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/08/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4731 OF 2007

Dated this the 6th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1, 3 and 4. They face allegations, inter alia, under Secs.420 and 406 of the IPC. All the four accused are partners of a chitty company. The crux of the allegations is that the petitioners induced the subscribers by making false representations to part with money. The subscribers are not being paid the amounts due to them. The de facto complainant allegedly filed a complaint before the police. Investigation is in progress. The petitioners apprehend imminent arrest. The 2nd accused has already been arrested by the police.

2. The learned counsel for the petitioners does not dispute the fact that the petitioners were partners of the chitty company; but contends that the petitioners have no liability for

the actual running of one branch of the chitty company at Perumbavoor which branch was being administered allegedly by the 2nd accused (another partner) who had taken over the entire responsibility and liability in respect of that branch.

3. The learned Public Prosecutor opposes the application. He submits that the alleged internal arrangement between the partners might also only suggest the want of bona fides on the part of the partners. The subscribers were left high and dry and the private arrangement between the partners and associates cannot under any circumstance be reckoned as an effective defence to the allegations raised against the petitioners, it is submitted. In any view of the matter, there are no circumstances justifying the invocation of the extraordinary discretion under Sec.438 of the Cr.P.C. The petitioners may be directed to appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case where the petitioners must appear before the Investigating Officer or the learned Magistrate and seek regular bail in the ordinary course. I find no features available

in this case which can successfully persuade this Court to invoke the powers under Sec.438 of the Cr.P.C.

5. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge